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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,513	09/15/2000	Douglas L. Welk	DP-303031	2784

7590 04/21/2004  
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Troy, MI 48007-5052

EXAMINER
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TRAN, TUAN A

ART UNIT	PAPER NUMBER
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2682

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DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/663,513

Applicant(s)

WELK ET AL.

Examiner

Tuan A Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                        |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1 and 14-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Hejna, Jr. (2002/0013949).

Regarding claim 1, Hejna discloses a method for enhancing in real-time the playback of a broadcast signal, comprising the steps: receiving a broadcast data signal at a player device wherein the broadcast data signal is further defined as an audio signal having audio portion and at least one non-audible portion (See figs. 2, 5 and page. 2-0033); storing the broadcast data signal on the player device; generating an output signal based on the broadcast data signal substantially simultaneous to the storage of the broadcast data signal (See fig. 2 and page. 2-0033 to page. 3-0035); and identifying the non-audible portion of the broadcast data signal prior to generating the output signal (See fig. 5 and page. 4-0035, 0040-0043); and increasing the duration of

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the non-audible portion of the broadcast data signal, thereby creating the time delay between the storage of the broadcast signal and the generation of the output signal (See fig. 5 and page. 4-0035, 0040-0043).

Regarding claim 14, Hejna discloses as cited in claim 1. Hejna further discloses the step of adjusting the time delay between the storage of the broadcast data signal and the generation of the output signal, thereby manipulating the output signal from the player device (See figs. 2, 4 and page. 3-0037).

Regarding claims 15-16, Hejna discloses as cited in claim 14. Hejna further discloses the step of adjusting the time delay comprises maintaining the storage of the broadcast data signal within a predefined limit of the output signal that correlates to the broadcast data signal and synchronizing the storage of the broadcast data signal with the generation of the output signal, such that a portion of the broadcast data signal is not output by the player device (See fig. 2 and page. 3-0034).

Regarding claim 17, Hejna discloses as cited in claim 1. Hejna further discloses the step of subsequently reducing the time delay between the storage of the broadcast data signal and the generation of the output signal, thereby fast-forwarding through a portion of the broadcast data signal (See fig. 6 and page. 4-0045, page. 20-0156, 0159, page. 21-0165).

Regarding claims 18-19, Hejna discloses as cited in claim 1. Hejna further discloses the step of creating a time delay further comprises: discontinuing the generation of the output signal; and replaying a portion of the broadcast data signal stored on the player device (See page. 10-0089).

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Regarding claim 20, Hejna discloses as cited in claim 1. Hejna further discloses the step of decreasing the duration of the non-audio portion of the broadcast data signal prior to generating the output signal, thereby reducing the time delay between the storage of the broadcast signal and the generation of the output signal (See figs. 2, 6 and page 4-0042).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Camhi et al. (5,930,444) in view of Hejna, Jr. (2002/0013949).

Regarding claim 13, Camhi discloses a player device 10 for enhancing in real-time the playback of an audio broadcast (See fig. 1), comprising: a tuner 26 for receiving a broadcast data; a storage medium 12 for storing the broadcast data signal; inherently a speaker for generating audio output that correlates to the broadcast data signal; and a controller 14 connected with the tuner, the storage medium and the speaker, wherein the controller is operative to create and adjust a time delay between the storing of the broadcast data signal and the generating of the audio output, thereby enhancing the playback of the audio broadcast (See figs. 1, 5 and col. 3 line 54 to col. 5 line 36, col. 6 lines 24-49). However, Camhi does not mention that the controller operative to identify the non-audio portion of the broadcast signal and to increase the

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duration of the non-audible portion of the broadcast data signal, thereby creating the time delay between the storage of the broadcast signal and the generation of the output signal. Hejna teaches an apparatus for enhancing in real-time the playback of a broadcast signal (See fig. 2) comprising the TSM system 800 capable of identifying the non-audible portion of the broadcast data signal prior to generating the output signal (See fig. 5 and page. 4-0035, 0040-0043); and increasing the duration of the non-audible portion of the broadcast data signal, thereby creating the time delay between the storage of the broadcast signal and the generation of the output signal (See fig. 5 and page. 4-0035, 0040-0043). Since both Camhi and Hejna suggest playback systems; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Hejna in modifying the controller 14 as disclosed by Camhi by having included the capability of identifying the non-audible portion of the broadcast data signal prior to generating the output signal and increasing the duration of the non-audible portion of the broadcast data signal, thereby creating the time delay between the storage of the broadcast signal and the generation of the output signal, for the advantage of avoiding data depletion that would cause the playback system to pause.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 and 13-20 have been considered but are moot in view of the new ground(s) of rejection.

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a. The Applicant argued that Hejna does not teach the steps of identifying the non-audible portion of the broadcast data signal prior to generating the output signal and increasing the duration of the non-audible portion of the broadcast data signal, thereby creating the time delay between the storage of the broadcast signal and the generation of the output signal (See Remark, pages 5-6). The Examiner respectfully disagrees with the Applicant's argument because Hejna does disclose the steps of identifying the non-audible portion of the broadcast data signal prior to generating the output signal (See fig. 5 and page. 4-0035, 0040-0043); and increasing the duration of the non-audible portion of the broadcast data signal, thereby creating the time delay between the storage of the broadcast signal and the generation of the output signal (See fig. 5 and page. 4-0035, 0040-0043). For that reasons, the Examiner remains the same rejections for all pending claims.

b. The Applicant argued that does not teach the controller operative to identify the non-audio portion of the broadcast signal and to increase the duration of the non-audible portion of the broadcast data signal, thereby creating the time delay between the storage of the broadcast signal and the generation of the output signal (See Remark, page 7). The Examiner agrees with the Applicant. However, Hejna teaches an apparatus for enhancing in real-time the playback of a broadcast signal (See fig. 2) comprising the TSM system 800 capable of identifying the non-audible portion of the broadcast data signal prior to generating the output signal (See fig. 5 and page. 4-0035, 0040-0043); and increasing the duration of the non-audible portion of the broadcast data signal, thereby creating the time delay between the storage of the broadcast signal

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and the generation of the output signal (See fig. 5 and page. 4-0035, 0040-0043).

Since both Camhi and Hejna suggest playback systems; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Hejna in modifying the controller 14 as disclosed by Camhi by having included the capability of identifying the non-audible portion of the broadcast data signal prior to generating the output signal and increasing the duration of the non-audible portion of the broadcast data signal, thereby creating the time delay between the storage of the broadcast signal and the generation of the output signal, for the advantage of avoiding data depletion that would cause the playback system to pause.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan Tran** whose telephone number is **(703) 605-4255**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vivian Chin**, can be reached at **(703) 308-6739**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

25425

Tuan Tran



**VIVIAN CHIN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**

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